

ERIC A. SEITZ  
ATTORNEY AT LAW  
A LAW CORPORATION

ERIC A. SEITZ 1412  
LAWRENCE I. KAWASAKI 5820  
820 Mililani Street, Suite 714  
Honolulu, Hawaii 96813  
Telephone: (808) 533-7434  
Facsimile: (808) 545-3608

Attorneys for Defendant  
GARY RODRIGUES

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

STEVEN DECOSTA IN HIS	)	CIVIL NO. 03-00598 DAE LEK
REPRESENTATIVE CAPACITY	)	
AS CHAIRPERSON OF THE	)	DEFENDANT'S MEMORANDUM
BOARD OF TRUSTEES OF	)	IN OPPOSITION TO PLAINTIFF'S
UNITED PUBLIC WORKERS,	)	MOTION FOR PRE-JUDGMENT
AFSCME, LOCAL 646, AFL-	)	INTEREST, ATTORNEY'S FEES,
CIO, MUTUAL AID FUND	)	AND COSTS; CERTIFICATE OF
TRUST, REAL PARTY IN	)	SERVICE
INTEREST UNITED PUBLIC	)	
WORKERS, AFSCME, LOCAL	)	
646, AFL-CIO,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
GARY RODRIGUES,	)	
	)	
Defendant.	)	
	)	

---

DEFENDANT'S MEMORANDUM IN OPPOSITION  
TO PLAINTIFF'S MOTION FOR PRE-JUDGMENT  
INTEREST, ATTORNEY'S FEES, AND COSTS

Although the caption of this case was amended belatedly to name the chair person of a particular trust as plaintiff, this is just one of several pieces of litigation in which the United Public Workers Union and its counsel have mounted a vendetta against UPW's former State Director, Gary Rodrigues, to strip Mr. Rodrigues of all of his remaining assets, pension accumulations, and any potential income he may still have when he is released from prison. The litigation is and always has been vicious and mean spirited, and regrettably the Court has been too willing a partner in what has become an entirely sordid series of events.

Mr. Rodrigues continues to maintain that he was not responsible for the loss of any monies belonging to the Mutual Aid Fund Trust. He reiterates that the UPW and its international union mishandled its litigation against the financial advisor who clearly was responsible for the losses and settled unnecessarily and too cheaply. And by the undisputed evidence it was the trustees and officers of the Mutual Aid Fund Trust who ultimately were responsible for the investments that went bad, not Mr. Rodrigues. Finally – and still unresolved – are the obligations of UPW to indemnify and reimburse Mr. Rodrigues since he was at most negligent in the conduct of his duties in connection with this matter, did not act outside the

scope of his employment by UPW, and in no way facilitated or benefited from the losses that were sustained.

Moreover, this litigation is not yet finished. The Court's findings and conclusions already are the subject of an appeal, and there is companion litigation pending in the Circuit Court of the First Circuit, State of Hawaii, in which Mr. Rodrigues will assert his claims for indemnification from UPW, inter alia. Accordingly, it is submitted that as a matter of decency and fairness this Court should not now inflict upon Mr. Rodrigues further financial obligations in favor of the very party that ultimately may be obligated to indemnify him.

Finally, this is not a case in which pre-judgment interest is appropriate. The potential liability and the amount of any such liability could not reasonably have been ascertained prior to the actual trial and this Court's ultimate entry of its findings and conclusions. Accordingly, back dating any obligation to pay a judgment that was not foreseeable would be inequitable and unjustified.

DATED: Honolulu, Hawaii, May 23, 2008.

/s/ Eric A. Seitz  
ERIC A. SEITZ  
LAWRENCE I. KAWASAKI

Attorneys for Defendant  
GARY RODRIGUES

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that one copy of the within was duly served this date electronically, via CM/ECF to the following at the address listed below:

JAMES E.T. KOSHIBA, ESQ.  
CHARLES A. PRICE, ESQ.  
KOSHIBA, AGENA & KUBOTA  
2600 Pauahi Tower  
1003 Bishop Street  
Honolulu, Hawaii 96813  
E-Mail: cprice@koshibalaw.com

Dated: Honolulu, Hawaii, May 23, 2008.

/s/ Eric A. Seitz  
ERIC A. SEITZ